THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.7655 OF 2007

Dated 16th April 2007

Between:

B.Raghava Reddy

…Petitioner

and

The Joint Transport Commissioner and
Secretary, Regional Transport Authority,
Khairathabad, Hyderabad & others.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7655 OF 2007

O R D E R:

The petitioner is the owner of vehicle, bearing No.AP-09T-1656. It was seized on 21.12.2006, by the 2nd respondent, through a vehicle check report. As many as 8 contraventions were pointed out, such as, non-production of Registration Certificate, Fitness Certificate, Driving Licence, Pollution Control Certificate, etc. It was also alleged that the vehicle was carrying 26 passengers, and tax was not paid for it. The petitioner approached the 1st respondent, for release of the vehicle. He was required to pay the compounding fee, on 9 counts, apart from the tax and the penalty. A sum of Rs.21,560/- was collected from him on 28.2.2007. The petitioner complains that even after payment of such huge amount, the respondents did not release the vehicle.

Learned Government Pleader for Transport obtained instructions, at the stage of admission, and submits that the vehicle could not be released to the petitioner, on account of the fact that a serious discrepancy, as to the number of the chassis of the vehicle, was noticed. It is stated that the petitioner was issued a show-cause notice, to explain the same.

Herd the learned counsel for the petitioner and learned Government Pleader for Transport.

A perusal of the check report dated 21.12.2006, discloses that as many as 8 violations, on the part of the petitioner, were pointed out. The number of the chassis was also taken note of. The petitioner submits that he got replaced the chassis, and the intimation thereof, was forwarded to the petitioner for necessary action, under Section 52 of the Motor Vehicles Act.

The petitioner himself admits that the chassis was replaced. Section 52 of the Act prescribes the procedure to be followed, in this regard. It is not as if the replacement of chassis is prohibited, without prior permission. An aspect to be noted in the matter is that the compounding fee on various counts was received from the petitioner, more than two months after the vehicle was seized. It presupposes due verification of various records. The very fact that the compounding fee, the tax due and penalty thereon, were collected, leads to an inference that the authorities are convinced that the vehicle can be released on such payment. If the detention of the vehicle ought to have been continued for any reason, there is no point in the petitioner paying compounding fee under various heads, much less a justification for the respondents to receive it.

Today, the learned Government Pleader placed a copy of letter, dated 13.4.2007, requiring the petitioner to explain about the discrepancy in the chassis number. It needs to be noted that the writ petition was filed on 12.4.2007 and on 13.4.2007 the letter was issued, evidently, as an after thought. The 1st respondent had obviously tried to create some record, to cover up the illegality committed by him. This court takes serious exception to the conduct of the respondents, in detaining the vehicle of the petitioner, for more than a month, even after collecting compounding fee and other amounts, to the tune of about Rs.21,000/-. The reasons appear to be obviously different, than what are cited before this court. But for the fact that the petitioner himself approached this court, at a belated stage, this court would have considered the feasibility of awarding damages against the respondents.

For the foregoing reasons, the writ petition is allowed and the respondents are directed to release the vehicle, forthwith. Any delay, in this regard, would lead to its own consequences. The release of the vehicle shall, however, be without prejudice to the rights of the respondents, to take necessary action, as regards the discrepancy in the chassis number of the vehicle. There shall be no order as to costs.

16th April 2007

Note: Issue C.C. in two days.

(B/o)

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